

each day of the plan year such trust  
benefits at least  
the lesser of—

"(i) 50 employees of the employer, or

"(ii) the greater of—

"(I) 40 percent of all employees of  
the  
employer, or

"(ID 2 employees (or if there is  
only 1  
employee, such employee)."

(b) SEPARATE LINE OF BUSINESS TEST.—Section 401(a)  
(26)(G)

(relating to separate line of business) is amended by  
striking  
graph (7)" and inserting "paragraph (2)(A) or (7)" "para-

26 USC 401 note. (c) EFFECTIVE DATE.—The amendments made by  
this section  
shall apply to years beginning after December 31, 1996.

SEC. 1433. NONDISCRIMINATION RULES FOR QUALIFIED  
CASH OR  
DEFERRED ARRANGEMENTS AND MATCHING  
CONTRIBUTIONS.

(a) ALTERNATIVE METHODS OF SATISFYING SECTION  
401(k) NON-  
DISCRIMINATION TESTS.—Section 401(k) (relating to cash  
or deferred  
arrangements) as amended by section 1422 is  
amended by adding  
at the end the following new paragraph:

"(12) ALTERNATIVE METHODS OF MEETING  
NONDISCRIMINA-  
TION REQUIREMENTS.—

"(A) IN GENERAL.—A cash or deferred  
arrangement  
shall be treated as meeting the requirements  
of paragraph

(3)(A)(ii) if such arrangement—

"(i) meets the contribution  
requirements of

subparagraph (B) or (C), and

"(ii) meets the notice requirements of  
subpara-  
graph (D).

"(B) MATCHING CONTRIBUTIONS.—

"(i) IN GENERAL.—The requirements of  
this

subparagraph are met if, under the  
arrangement, the

employer makes matching contributions on  
behalf of

each employee who is not a highly  
compensated

employee in an amount equal to—

"(I) 100 percent of the elective  
contributions

of the employee to the extent such  
elective con-

tributions do not exceed 3 percent of the  
employee's

compensation, and

"(II) 50 percent of the elective contributions  
of the employee to the extent that such elective  
contributions exceed 3 percent but do not exceed

5 percent of the employee's compensation.

"(ii) RATE FOR HIGHLY COMPENSATED EMPLOYEES.—

The requirements of this subparagraph are not met if, under the arrangement, the rate of matching contribution with respect to any elective contribution of a highly compensated employee at any rate of elective contribution is greater than that with respect to an employee who is not a highly compensated employee.

**(iii) ALTERNATIVE PLAN DESIGNS.** If the rate of any matching contribution with respect to any rate of elective contribution is not equal to the percentage required under clause (i), an arrangement shall not be treated as failing to meet the requirements of clause (i) if—